

PEACE RIVER REGIONAL DISTRICT
Bylaw No. 2494, 2023

A bylaw to establish a Board of Variance

WHEREAS, the Regional Board of the Peace River Regional District has adopted several zoning bylaws;

AND WHEREAS, pursuant to the *Local Government Act*, the Regional Board of the Peace River Regional District must establish, by bylaw, a Board of Variance;

AND WHEREAS, pursuant to the *Local Government Act*, the bylaw establishing a Board of Variance must set out procedures to be followed by the Board of Variance;

NOW THEREFORE, the Regional Board of the Peace River Regional District, in open meeting assembled, enacts as follows:

GENERAL PROVISIONS

1. This bylaw shall be cited as “Board of Variance Bylaw No. 2494, 2023.”
2. If any portion of this bylaw is declared invalid by a court, the invalid portion shall be severed and the remainder of the bylaw is deemed valid.
3. The headings used in this bylaw are for convenience only and do not form part of this bylaw, and are not to be used in the interpretation of this bylaw.
4. A reference in this bylaw to an enactment is a reference to an enactment of the Board of Variance, Regional Board, or of British Columbia and regulations thereto, as amended, revised, consolidated, or replaced from time to time.
5. A reference in this bylaw to a bylaw, policy or form of the Peace River Regional District is a reference to the bylaw, policy or form as amended, revised, consolidated or replaced from time to time.

ESTABLISHMENT

6. A Board of Variance is hereby established for Electoral Areas ‘B’, ‘C’, ‘D’ and ‘E’.

DEFINITIONS

7. In this bylaw,

Board of Variance means the Board of Variance for Electoral Areas ‘B’, ‘C’, ‘D’ and ‘E’ of the Peace River Regional District;

Chair means the Chair of the Board of Variance;

Clerk means the administrative support clerk of the Board of Variance in accordance with this Bylaw.

Member means a person appointed to the Board of Variance;

PRRD means the Peace River Regional District;

Regional Board means the Board of Directors of the Peace River Regional District;

APPOINTMENT

8. The Board of Variance shall consist of three (3) Members.
9. The appointment of Members shall be by resolution of the Regional Board.
10. An appointment under this section is for a maximum of:
 - a. three years; or
 - b. if no successor has been appointed at the end of the three-year term, until the time that a successor is appointed.
11. Members of the Board of Variance may be reappointed for a maximum of three (3) consecutive terms.
12. In accordance with the *Local Government Act*, employees, directors or alternate directors of the Regional District or members of an advisory planning commission are not eligible for appointment as Members of the Board of Variance, but they may attend meetings in a resource capacity.
13. Upon resignation, death or removal of a Member during his or her term of office, the Regional Board shall, by resolution, appoint a successor who shall hold office during the remainder of the term of the former Member.
14. The Regional Board may, by resolution, remove any Member at any time.

CHAIR

15. The Board of Variance shall elect one (1) of the Members as Chair.
16. The Chair may appoint another Member as acting Chair to preside in the absence of the Chair.
17. The responsibilities of the Board Chair are:
 - a. To conduct any hearings of the ;
 - b. To ensure procedural fairness; and
 - c. To direct how evidence is to be presented at a meeting in accordance with this Bylaw.

ADMINISTRATIVE SUPPORT

18. The Peace River Regional District will assign a Clerk to provide administrative support to the Board of Variance.
19. The Clerk shall be responsible for the following:
 - a. To receive and determine completeness of an application;
 - b. To notify the Chair and Members of the receipt of an application;
 - c. To schedule a meeting at which to consider the application;

- d. To provide notice of an application in compliance with the *Local Government Act* and this bylaw;
- e. To prepare the agenda and minutes of each Board of Variance meeting;
- f. To have the Chair sign minutes as soon as practical after a meeting;
- g. To mail or otherwise deliver to the applicant written notice of the Board's decision;
- h. To maintain records of all decisions of the Board of Variance and ensure these records are available for public inspection during regular business hours; and
- i. To forward a copy of the minutes of hearings to the Regional Board for their information.

APPLICATION

20. A person may apply to the Board of Variance for an order pursuant to the *Local Government Act* for a variance or exemption to relieve hardship as described in the Act.
21. Any person seeking an order from the Board of Variance shall:
 - a. complete the required application form;
 - b. state clearly the grounds on which the application is based and the relief sought; and
 - c. pay the associated fee.
22. The administrative support Clerk shall notify the Chair of any application and the Chair shall, within thirty (30) days of receiving such notice, schedule a meeting.

NOTICE

23. On receipt of an application, and the determination of the meeting date, the Clerk shall deliver, not less than ten (10) days prior to the date of the meeting, notice of the meeting to:
 - a. All Members;
 - b. The applicant and any other owners or tenants in occupation of the land that is the subject of the application, including an invitation to attend the meeting with the opportunity to address the Members;
 - c. The registered owners as shown on the last revised assessment roll and tenants of all real property located adjacent to the property which is subject to the application; and
 - d. The General Manager of Development Services or their designate.
24. The meeting notice shall include the following:
 - a. date, time and location of the meeting;
 - b. a map depicting the location of the property for which a variance is being sought;
 - c. a brief description of the subject matter of the application; and
 - d. if electronic participation is available and if so, how the meeting will be conducted and how the public can participate.

PUBLIC ATTENDANCE

25. Meetings of the Board of Variance shall be open to the public.

26. The Board of Variance may close to the public all or part of a meeting in accordance with the *Community Charter*.

QUORUM

27. Decisions shall only be made at a meeting when a quorum is present.
28. The quorum of the Board of Variance is two of its Members, one of whom shall be the Chair or acting Chair per section 16.
29. Should there be no quorum present within thirty minutes after the time appointed for the meeting, the Clerk shall record in the minute book the names of the Members present at the expiration of such thirty minutes and the meeting shall stand adjourned until the next meeting date.

CONDUCT OF HEARING

30. The Board of Variance shall be convened by the Chair on the date of hearing and at the time and place set out in the notice.
31. The Chair or, in his/her absence, an acting Chair pursuant to this Bylaw, shall preside at all meetings.
32. The Members shall permit evidence and arguments to be presented at a meeting, either orally or in writing, in the following order:
- a. The hearing of evidence and argument from the applicant;
 - b. The General Manager of Development Services, or their designate;
 - c. The PRRD's Building Inspector;
 - d. The Clerk shall read aloud written evidence submitted in advance of the meeting; and
 - e. Any person or body with interest in property within the Regional District is entitled to be heard at the meeting, and is entitled to be represented by a solicitor or by an agent duly appointed in writing.
33. The Members may confer with PRRD staff when considering an application at a meeting.
34. The Members shall hear and determine applications on the grounds and to the extent set out in the *Local Government Act*.
35. The Board of Variance may view the property affected by the application and surrounding properties.
36. The Board of Variance may adjourn the meeting from time to time, and may reconvene without further published notice if the time, date, and place of reconvening is announced at adjournment.

DECISION

37. The decision of the Board of Variance shall be by a majority of those Members present at the meeting subject to the following:
- a. Each Member shall have one (1) vote;
 - b. A Member who abstains from voting shall be deemed to have voted in favour of the application; and

- c. Voting shall be conducted by a simple show of hands unless the meeting is otherwise conducted through electronic voting means by the Members.
38. At the conclusion of a meeting for each application, the Board of Variance may:
- a. Make an order under the applicable provisions of the *Local Government Act*;
 - b. Deny the application;
 - c. Permit the applicant to amend their application by reducing the extent of the variance sought and accept that amended application; or
 - d. Request further information from the applicant, PRRD staff, or any person who has made a submission to the Board of Variance in respect to the application and adjourn the meeting in accordance with this bylaw.
39. If the applicant or other persons notified do not appear at the hearing or any adjournment thereof, and have not advised the Clerk in advance that they wish to be heard on another date, the Board of Variance may proceed to decide the application in their absence.
40. The decision of the Board of Variance is final and binding.
41. The Clerk shall, within seven (7) days of a decision, send by mail or otherwise deliver the written decision of the Board of Variance to:
- a. the applicant;
 - b. all persons who made representation at the hearing;
 - c. the General Manager of Development Services; and
 - d. the Building Inspector.
42. A permission or exemption granted in an order of the Board of Variance will terminate if construction is not substantially started within two years after the order is granted, or as otherwise specified in the order.

ELECTRONIC PARTICIPATION AT MEETINGS

43. A Member who is unable to attend a Board of Variance meeting may participate in the meeting by means of electronic or other communication facilities provided:
- a. prior arrangements have been made with the Chair and Clerk;
 - b. how the meeting will be conducted was included on the notice, pursuant to Section 24(d) of this bylaw.
44. The Member presiding at the meeting must not participate electronically.
45. At least one Member or the Clerk must be present in the designated meeting location, as identified in the public notice.
46. The facilities must enable the meeting's participants to hear, or watch and hear each other.
47. A Member participating by audio means must indicate his or her vote verbally.
48. Nothing in this bylaw shall be construed to guarantee any Member electronic access to a meeting. Electronic participation will be restricted by equipment and facility capability.

49. Equipment failure or other occurrence that prevents or limits electronic participation will not result in Meeting adjournment unless the failure results in loss of quorum.

CONFLICT OF INTEREST

50. If any Member or their family members, employers or business associates have any conflict of interest with any matter being considered by the Board of Variance, that Member shall recuse themselves from all aspects of the application.

REIMBURSEMENT OF MEMBERS

51. Members shall serve without remuneration, but they may be paid reasonable and necessary expenses that arise directly out of the performance of their duties.

RELATION TO LOCAL GOVERNMENT ACT

52. This bylaw is not intended to conflict with any provision of the *Local Government Act* relating to boards of variance nor to fetter any statutory authority of the Regional District in relation to a Board of Variance or its Members.

REPEAL

53. Board of Variance Bylaw No. 941, 1994 and all amendments thereto are hereby repealed.

READ A FIRST TIME THIS 2nd day of February, 2023.

READ A SECOND TIME THIS 2nd day of February, 2023.

READ A THIRD TIME THIS 2nd day of February, 2023.

ADOPTED THIS 2nd day of February, 2023.

Original signed by

Leonard Hiebert, Chair

(Corporate Seal has been affixed to the original bylaw)

Original signed by

Tyra Henderson,
Corporate Officer

I hereby certify this to be a true and correct copy of the "Peace River Regional District Board of Variance Bylaw No. 2494, 2023", as adopted by the Peace River Regional District Board on February 2, 2023.

Original signed by
Tyra Henderson, Corporate Officer